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How Senator Ervin Intimidated Negro Witnesses at the Civil Rights Hearings, Page 2

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Why The Middle Eastern Crisis Is Only Just Beginning

On February 11, in an aide memoire to the Israeli government, the State Department said that "the United States, on behalf of vessels of United States registry, is prepared to exercise the right of free and innocent passage" through the Straits of Tiran. At press conference on February 19, when Israel was still being pressured to withdraw from Sheikh el Sharm, the Secretary of State said "the United States, in acting on its own behalf and perhaps, as I have suggested, in concert with other maritime powers would, I think, be able to impress on that body of water an international character, the benefits of which would inure to all maritime states." This seemed to be a pledge that the U.S. would send ships through the straits to establish their international character, and open the Gulf of Akaba.

Yes Becomes Maybe

But at press conference last week, after the Israeli withdrawal had finally been set in motion, what seemed to be a firm pledge began to dissolve. That quality of Mr. Dulles which Senator Russell described as "wrestling with a moonbeam" made its appearance. A newspaperman referred to the promise in the aide memoire and asked what steps were being taken to fulfil it. "Well," Mr. Dulles replied, "there is no prearranged exercise in that respect. It would be normal that a ship of United States registry would be going through it. . . ." This sounded alarmingly vague and a second question was pressed, "But you don't know of any particular ship?" To this he replied—and his words will bear study—"No, I haven't looked into that. Of course, that is a matter which is primarily under private direction. The shipping companies send their ships where they will. We assume that one will be going there, but that is not based upon any checkup with the companies." This implied that in fact the State Department had made no plans and taken no steps to send a ship through the straits as a test. Indeed it appeared from the next question and answer that the Department had not even taken the matter seriously enough to inform shipping companies that it was prepared to support free passage through the straits. For when the Secretary was asked whether any notice had been sent to shipping companies "that the strait is considered to be open," Mr. Dulles replied, "Well, I think that everybody is supposed to have read the newspapers in that respect, particularly if they are in the shipping business." There are some ugly words for this way of treating what seemed to have been a pledge.

We touch upon it here at some length because the promise to send a ship through the straits seemed to be the one firm commitment in the exchange which passed between Washington and Jerusalem, the one step which depended not on the United Nations but on the United States alone, and the one step which Mr. Dulles himself had said was clearly in accord with international law. It thus becomes a test of Mr. Dulles' honesty. With it, attention should be called to Mr. Dulles' reply when asked whether he discussed with King Ibn Saud "who was going to occupy the islands of the straits when the Israelis move out?" Mr. Dulles replied that it was not discussed and that he had no reason to suppose there would be any alteration in the arrangements by which Saudi Arabia "consented to their occupation by Egypt" in 1950. Though the straits question may bring a revival of war in the Middle East if they are again closed to Israeli shipping, Mr. Dulles did not think it important enough to discuss with Ibn Saud when he was here. Is this a responsible way to conduct diplomacy?

Encouraging Nasser to Be Intransigent

The curious replies given by Mr. Dulles at last week's press conference on related subjects, particularly what the U.S. will do if Egypt bars British and French ships from the canal, must encourage Nasser to believe that he can with impunity create a new crisis once Israel withdraws—and be rewarded for his contumacy. The truth is that the Senate last week took part in a dangerous fraud. There are few Senators left, on either side of the aisle, who trust Mr. Dulles or have much confidence left in Mr. Eisenhower either as far as the Mid-East is concerned. They passed a resolution which can only serve to make the country believe a crisis has been solved, when it has only just begun. Mr. Dulles is so slippery that he will end by making us distrusted on all sides, in the East and in Europe. His own light-fingered cleverness has made him giddy, and he has brought us—as events may soon show—to another "brink."

No Need to Go As Far As Ghana

Amid all the ballyhoo in our press about Vice President Nixon's visit to Ghana, little attention was paid to two items which will bulk large in the eyes of Africans. The first is that Dr. W. E. B. du Bois, the greatest living Negro historian, who wrote the story of the black continent from the black man's point of view, was unable to attend the independence celebration. The State Department refused to give him a passport unless he would sign a non-Communist affidavit. The second is that the Rev. Martin Luther King, leader of the Montgomery, Alabama, bus boycott, was unable to get any response from the Eisenhower Administration until he ran into Vice President Nixon at the Ghana celebration, where the two men "shook hands warmly" for the photographers. The Vice President travels all the way to the Gold Coast to woo a new Negro nation. In far off Africa, Dr. King can even get his hand shook. But at home the brushoff greets repeated Negro appeals from our own South for Presidential intervention against racism and terror. The place to win Africa's friendship is still Montgomery, Alabama.

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Northern Liberals Let A Southern Senator Take Over The Day Negroes Testified

Victims of Racist Terror Subjected to Intimidating Interrogation

By Marvin H. Caplan

To the five witnesses the situation must have seemed ominous. They had come before the Senate Subcommittee on Constitutional Rights to describe the perils they faced as Negroes living in the South. They came to urge, in the name of their own self-preservation, the passage of the civil rights bills the Committee is considering. They found a Southerner presiding over most of the session.

The regular committee chairman, Senator Hennings, and Nebraskan Senator Hruska made only brief appearances. Other assignments and the Mid-East debate, an aide said, took them away. Senator Sam J. Ervin, Jr., of North Carolina was left virtually alone with the witnesses. He soon confirmed any misgivings they might have had.

One of the witnesses was Gus Courts of Belzoni, Miss., who told again how his attempts to vote led to a shotgun attack upon his life (See *Stone's Weekly*, Mar. 12, 1956). "I had to leave my $15,000 a year grocery business, my trucking business, my home, my everything. My wife and I and thousands of us Negroes have had to run away. We had to flee in the night."

This prompted Sen. Ervin to ask: "Did you file a Federal income tax for 1954?"

Courts said he had. An auditor handled his business and "whenever he told me what to send in I sent it in." Ervin was not satisfied with that. How much tax had he paid? Was it state tax or Federal tax? Under incessant questions the old man grew confused. He was not certain he had Federal taxes. Did he want to change his testimony then or take it back, Ervin asked in a manner reminiscent more of a police court than a friendly Senate inquiry.

The Belzoni man testified that after he was shot down in his store the Chief of Police ordered him to a hospital two blocks away. But Courts feared they would finish him there, so though he was bleeding freely he had a friend drive him to a Negro hospital 80 miles away. Sen. Ervin pounced on a detail in the testimony. "You say you got there in 40 minutes? . . . You think you were averaging two miles a minute? . . . You were travelling pretty fast weren't you?"

How Many Killings Is A "Lot"?

Courts also told how his friend the Rev. G. W. Lee was shot and killed for refusing to take his name off the voters register; how another Negro voter was shot on the Court House steps with "more than 50 people standing around, including the sheriff." He told how a signed petition he and others sent to Gov. Coleman asking for protection somehow found its way back into the hands of the local White Citizens Council. He said, "there have been a lot of Negroes found in rivers. Others just killed in broad daylight."

A "lot"? Ervin asked. "How many does the word 'lot' mean?" Courts could recall only three drownings, only two where he personally had seen the bodies fished out. One was the body of Emmett Till. Ervin was inclined to discount that since, as he observed the next day, the Till case "had no reference to any matter of voting rights."

Ervin's tactics prompted Clarence Mitchell, Director of the Washington Bureau of the NAACP, to come to Courts' defense. "I would say with all respect that it is a very, very difficult experience to see this man, who is an American citizen, who has been shot and who has been exposed to a chain of events that apparently started because he was seeking the right to vote, be subjected to the kind of cross-examination which unhappily may make his story look like it is not as heart-rending as it is."

The sum of Ervin's retort was that it was "heart-rending" to him to have a man make a questionable statement to a Senate committee. The next day the Senator was able to produce a batch of telegrams from white men in and around Belzoni contradicting points in Courts' testimony. The promptness with which he obtained this and other material strongly suggested that fellow Southerners were supplying him with information to use against troublesome witnesses.

A Message From Senator Eastland

There was more evidence of such Senatorial cooperation when Mrs. Beatrice Young of Jackson, Miss. testified.

Mrs. Young told a terrifying story of police brutality. A family quarrel brought a Deputy Sheriff to her door charging that she was hiding her niece. When she asked for his search warrant he threatened to kick down the door. When she opened the door "he hit me in the head with his blackjack and came in." He took her to jail where he cursed her and struck her again. She said she had had an operation on her head. The jailer said, " 'Girl, let me see where you had your operation.' I went to show him and he hit me on the head." They still continued to beat and mistreat her after she told them she was two months pregnant. She was kept in jail all night and released the next day. She was in bed under doctor's care for a week and lost her child. Mrs. Young denied "a monstrous allegation originating in Hinds County Courthouse" that she had submitted to a criminal abortion. "I want it known here, now and always that the reason I lost my child is because of the sick minds of the men mentioned above. God forbid such injustices. Gentlemen, I beg of you to do something to stop these un-Godly acts."

Sen. Ervin was ready for Mrs. Young. She had submitted a statement of her case a week or two earlier to the House Committee considering the civil rights laws and Sen. Ervin was able to produce, through the courtesy of Senator Eastland's office, a detailed refutation of it. This was an affidavit from the Deputy Sheriff denying he had gone to her house without a warrant or that he had struck her or knew she was pregnant or suffering from a head injury.

The day's hearing ended amid conventional pleasantries. Sen. Ervin thanked the witnesses and said what a fine thing it was to be able to discuss these things, disagreeing in some cases "without getting disagreeable about it." And it is true that except for badgering Courts, he had been polite to all the others. For in this he is like many Southern gentlemen. Able to offer Negroes the amenities, but not justice.

Hugo Black In The Good Old Days

". . . Senator Eastland said that the Supreme Court justices who ordered the mixing of the races in the schools had been brainwashed. Certainly something of the sort must have happened to Hugo Black who, when I was closely associated with him in Washington —and I'm telling you the truth, Mr. Chairman—from 1927 to 1933, was an ardent champion of states rights, fearful of encroachments upon the states by the Federal government . . ."

—Hugh G. Grant, Augusta, Ga., one time law clerk to Mr. Justice Black, at the Senate Civil Rights hearings.

We Hold These Truths To Be Self-Evident

". . . it is inequality that gives enlargement to intellect, energy, virtue, love and wealth. Equality of intellect stabilizes mediocrity. . . . Equality of wealth makes every man poor. Equality of energy renders all men sluggards. Equality of virtue suspends all men without the gates of Heaven. Equality of love would stultify every manly passion, destroy every family, alter and mongrelize the races of men."

—Leander H. Perez, Louisiana District Attorney (25th Dist.) at the Senate Civil Rights hearings.

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Supreme Court in the Paul Sweezy Case Asked to Pass on State Witch Hunts

Is New Hampshire Prosecuting Real Crime, or Hunting Heresy?

While Massachusetts is moving 300 years late to acquit her witches, New Hampshire is just beginning to prosecute hers. In 1951, the New Hampshire legislature passed an act designed to punish "subversive activities" and authorizing its Attorney General to investigate "whether subversive persons . . . are presently located within this State." The dragnet cast by the inquiry is indicated in the latest ruling (February 28) of the State's Supreme Court which 3 to 2 upheld the contempt conviction of Dr. Willard Uphaus, executive director of World Fellowship, Inc., for refusing to turn over a list of the guests at its summer camp in Albany, N. H., to the Attorney General. The first appeal from New Hampshire to reach the U.S. Supreme Court was heard here on March 5 when Professor Thomas I. Emerson of Yale Law School appeared on behalf of Paul M. Sweezy, co-editor of the *Monthly Review* and an internationally known independent Marxist economist. Counsel and client alike deserve salute for their courage.

Two issues were raised by the appeal. Victory on either would cripple State witch hunts. The first issue arose from the Supreme Court decision last April in *Pennsylvania v. Nelson*, which held State sedition prosecutions invalid on the ground that the Federal government under the Smith Act had pre-empted the field. The question raised by Professor Emerson in the Sweezy case is whether New Hampshire could validly carry on a State investigation in an area where it could not legislate. The issue was cut fine for the defense because the investigation, while authorized by joint resolution of the legislature, was actually conducted by the chief law enforcement officer, the Attorney General. The Court could thus rule on this issue without passing squarely on the more ticklish question of whether a State legislative investigation, a little Un-American Activities Committee, was also outlawed by the Nelson decision.

The First Amendment Issue

The other issue, arsing under the First Amendment, was cut as fine. Under the New Hampshire statutes, membership in the Communist party or advocacy of change by force and violence are required to prove "subversive activity." Paul Sweezy, delivering a guest lecture at the University of New Hampshire, denied under interrogation by the Attorney General that he was a Communist or had advocated forcible change. But he refused to answer other questions about his views or the content of his lecture on the ground that these clearly invaded freedom of speech under the First Amendment. He refused on the same grounds to answer questions about the Progressive Party.

How could these wider questions be asked under a statute which defined subversive activity so precisely? The Attorney General argued and the State Supreme Court ruled that the definition included persons engaged in the specified conduct "whether or not done knowingly or wilfully." This left the permissive bounds of lawful speech perilously indefinite, since a person who honestly believed he was advocating gradual change might be prosecuted on the ground that he was *really* preaching revolution.

The Subtlety of Heretics and Witches

"Appellant declined to answer questions concerning the subject of his lecture or its content. In fact he would say nothing further than that he did not advocate therein the overthrow of the government by force and violence. . . . The difference between advocacy of subversive doctrine and teaching about what such doctrine is in the sense of objective explanation is obvious, at least on paper. Subtleties of shading of advocacy by inflection, gestures or even mien, are not so obvious. . . . It is perfectly possible that a witness might aver under oath that he had not advocated subversive doctrine, when in fact he had done so, whether intentionally or otherwise. . . ."

—Louis C. Wyman, Attorney General of New Hampshire, motion to dismiss the appeal of Paul M. Sweezy in the U.S. Supreme Court.

The statement in the box above from the Attorney General's motion to dismiss indicates the true nature of such prosecutions. In the prosecution of a crime, knowledge and intent are necessary ingredients. In the prosecution of heresy, they are not essential. A man may be a heretic, he may be spreading heretical notions, without intending or knowing it. The question is not whether a crime was committed but whether there was deviation from orthodox doctrine. There may be honest error in heresy. When the Attorney General argued that a person may be advocating subversive doctrine without knowing or intending it, he was plainly looking for heresy, not crime.

Indeed, though the Attorney General argued as softly as any cooing liberal dove before the Court, insisting that his inquiries were "private" and purely exploratory, averring that he did not accuse Sweezy either of Communism or perjury, the nature of the proceeding became clear as the argument unfolded. When judges of the U. S. Supreme Court engage, as they did last week, in the exegesis of a Marxist scholar's writings, sampling here and probing there to determine whether he was espousing gradualism or revolution, books are on trial. This was the the Holy Office in new guise.

News Note: Despite the bad weather, the ballroom of the Hotel Woodstock in New York City was filled March 1 for fellow newspaperman William Price and $700 was contributed to aid his defense on trial this week for invoking the First Amendment before the Senate Internal Security subcommittee.

How Wacky Can You Get Dept: Subversive Subway Conductors in an H-Bomb Attack

". . . in modern warfare the civilian population may well be a prime target. A bombing raid on New York City would undoubtedly be planned for a time when the maximum number of people would be in the city. The most important facility for the evacuation of the people would be the subway system. If petitioner were a member of the Communist conspiracy he would, as an employe of the transit system in charge of a train, as conductors are, be a very real threat to the security of the State and of the City."

—Chief Justice Conway, New York Court of Appeals, upholding the dismissal of Max Lerner, a New York City subway conductor, as a security risk because he invoked the 5th Amendment when asked whether he was a Communist.

". . . the anticipation of risks to 'the security and defense of the nation and of the state' from a person in appellant's position strikes me as a submission to unreasoning fear rather than a rational basis for administrative action. The job of opening and closing the doors of a subway train is hardly one of the 'strategic posts in transportation' to which Mr. Justice Jackson adverted in Dennis v. U. S."

—Justice Fuld, dissenting.

The Chief Justice seems to fear that if an H-bomb dropped on New York, subversive subway conductors might refuse to open the subway doors. This is not the only danger. They might also take advantage of their trapped passengers by passing out sample copies of the *Daily Worker*.

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In Memoriam: Raoul Wallenberg: An Anti-Hitler Hero The NKVD Murdered

Our New Supreme Court Justice Belongs to the Horatio Alger Era

Our new Supreme Court Justice belongs to the Horatio Alger era of American history and seems to share its naive outlook. Charles Evans Whittaker is the boy who quit school in the ninth grade to earn his way trapping and farming; the office boy at Watson, Gage & Ess who grew up to become its senior partner; the poor boy who lived to head the foremost corporation law firm in Kansas City, representing Union Pacific, Southern Pacific, the big utilities of the Mid-West, and the *Kansas City Star,* that journalistic Gibraltar of safe and sound Republican conservatism. His appointment caught even the Missouri papers by surprise: their "morgues" contained only the most meager scraps about him; he had been neither in politics nor public service; he had defended no famous or humble clients; he had never been moved to stand up for the oppressed or the outnumbered. He seemed to have made no speeches. Here was the ideal candidate for a bank presidency, an impeccable nonentity of the respectable bar.

His ideas of the law, as expounded in fleeting press conferences here in Washington and later back in Missouri, fit the picture perfectly. He thinks the judiciary ought to "confine itself to interpreting the law and not invoke its own philosophy of law." He was quoted as saying in St. Louis that he never holds any preconceived ideas when approaching a case, a remark that would have made Mr. Justice Holmes chuckle. He is "not conscious of any leanings." A man who is not conscious of any "leanings" is a man who has all the conventional leanings of his time, class and calling. All this reflects the psychology and the legal philosophy of the mid-Nineteenth century, both content to take at face value the surface rationalizations of human conduct; it is pre-Freud and pre-Holmes.

But this is not the whole picture of the new judge. He gives the impression of a modest man, with a sense of humor. He was elected head of the Missouri Bar Association although neither a glad-hander nor a back-slapper. Though he has been on the Federal bench less than three years, he has shown himself to be a competent jurist, worthy of respect. Unlike Mr. Justice Brennan (whose nomination was unanimously approved by the Senate Judiciary Committee last week), he gives no indications of any liberal emotions and will almost certainly be right of center on social and political issues. This does not necessarily mean that he will be unfriendly to civil liberties; Charles Evans Hughes was a prime example of a Wall Street corporation lawyer who also became a leading champion on the bench of First Amendment rights. It is disappointing to have an Edgerton, a Hastie, a Dean Griswold passed over, but it is pleasanter to have a Whittaker than a Brownell. This is an honorable and devoted man, young enough to learn. Predicting what a man will do on the Supreme Court is hazardous; at least there is nothing in Judge Whittaker's record to make one fear the worst.

Another Murder in the Lubianka

We cannot pass over in silence the news that the long missing Swedish diplomat, Raoul Wallenberg, died in Moscow's notorious Lubianka prison in 1947. To the Jews of Hungary, in the last days of World War II, this was an angel of mercy. No human being ever worked more devotedly to help others; he issued some 20,000 Swedish "protective" passports and rented some 30 apartment houses which he converted into extensions of the Swedish legation to give diplomatic shelter to men, women and children otherwise doomed to the Nazi furnaces. No country but Sweden ever allowed a diplomat to act in so unconventional and human a fashion, and surely no country but Russia could have treated him so barbarously. Through some savage stupidity this anti-Nazi hero was arrested when the Red Army entered Budapest. He disappeared into the vaults of the NKVD. Repeated inquiries and protests from Sweden were of no avail. Now Moscow says he died of a heart attack in the notorious Lubianka prison ten years ago. A country in which the secret police can treat a neutral diplomat so cruelly, high-handedly and unjustly is a disgrace to world socialism. The Wallenberg case shows what can happen in a country where there is no right of counsel, no habeas corpus, no real restriction on the police and—among its heavy-handed bureaucratic rulers—no feeling whatsoever for justice.

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